

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HITACHI CONSUMER ELECTRONICS CO., LTD., and HITACHI ADVANCED DIGITAL, INC.,

Plaintiffs,

v.

TOP VICTORY ELECTRONICS (TAIWAN)CO. LTD., TPV INT'L (USA), INC., ENVISION PERIPHERALS, INC., TOP VICTORY ELECTRONICS (FUJIAN) CO. LTD., TPV ELECTRONICS (FUJIAN) CO. LTD., TPV TECHNOLOGY LTD., and VIZIO, INC.,

Defendants.

CIVIL ACTION NO. 2:10-CV-260-JRG

JURY

**JOINT MOTION FOR PARTIAL SUMMARY JUDGMENT OF
NON-INFRINGEMENT OF CLAIM 32 OF U.S. PATENT NO. 8,009,375**

Plaintiffs Hitachi Consumer Electronics Co., Ltd. and Hitachi Advanced Digital, Inc. (collectively “Hitachi”) and Top Victory Electronics (Taiwan) Co. Ltd., TPV International (USA), Inc., Envision Peripherals, Inc., Top Victory Electronics (Fujian) Co., Ltd., TPV Electronics (Fujian) Co. Ltd., TPV Technology Ltd. (collectively, “Defendants”) file this joint motion to enter a stipulated partial summary judgment that Defendants do not infringe claim 32 of United States Patent No. 8,009,375 (“375 Patent”).

1. On November 13, 2012, the Court issued its *Markman* order construing the claims of the Patents-in-Suit, including the claims of the ’375 Patent. Dkt. No. 170.

2. The Court construed the term “control signal information” in claim 32 of the ’375 Patent to mean “data used to control a recording or playback process.” *See* Dkt. 170 at 31-36.

3. Based on the record and the Court's construction of the "control signal information" limitation of the '375 Patent, the "control signal information" limitation is not found to be literally present in the accused products or present under the doctrine of equivalents, and Defendants are entitled to judgment of non-infringement of claim 32 of the '375 Patent.

4. Accordingly, a stipulated summary judgment of non-infringement of claim 32 of the '375 Patent should be entered, and Defendants' remaining counterclaims and defenses regarding claim 32 of the '375 Patent should be dismissed without prejudice.

5. This motion shall not be considered a waiver of Hitachi's right to appeal the Court's November 13, 2012, *Markman* order or the judgment entered pursuant to this Joint Motion for Partial Summary Judgment of Non-infringement of Claim 32 of U.S. Patent No. 8,009,375. Hitachi anticipates that it may appeal the Court's construction of the term "control signal information" in claim 32 of the '375 Patent and the Court's judgment based upon that construction.

Dated: April 2, 2013

Respectfully submitted,

/s/ Jeffrey B. Plies

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Attorneys for Plaintiffs Hitachi Consumer Electronics Co., Ltd. and Hitachi Advanced Digital, Inc.

Dated: April 2, 2013

Respectfully submitted,

/s/ Vision L. Winter (w/permission)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on April 2, 2013.

/s/ Jeffrey B. Plies

Jeffrey B. Plies